UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/836,952
Filing Date: April 17, 2001
Appellant(s): JAM, MEHRBAN

_____
Dan C. Hu, Reg. No. 40,025
<u>For Appellant</u>

REPLY BRIEF NOTED

The reply brief filed on May 23, 2008 has been entered and considered. The

application has been forwarded to the Board of Patent Appeals and Interferences for

decision on the appeal.

Response to Arguments

I. NEW GROUND OF REJECTION UNDER 35 U,S,C, § 101

Although the term "computer-usable medium" is slightly different from "computer-readable medium" noted in the M.P.E.P., it is respectfully submitted that these two terms are equivalent for purposes of establishing whether or not claim 13 recites statutory subject matter. A person of ordinary skill in the art would clearly recognize that in the context of claim 13, the computer-usable medium <u>has to be</u> a physical object to enable a computer to execute computer program cede embodied in the computer-usable medium. In other words, the "computer-usable medium" of claim 13 does not constitute descriptive material per se, but rather, <u>has to be</u> a physical object that is accessible by a computer to execute the program code embodied in such physical object. Therefore, it is respectfully submitted that claim 13 recites statutory subject matter under § 101. Independent claim 31 similarly recites statutory subject matter. Therefore, reversal of the § 101 rejection of claims 13-19 and 31-35 is respectfully requested.

Examiner respectfully disagrees with the appellant. The point of contention is that "medium" as presented in claims 13 and 31 is neither defined by the specification nor drawings as a physical object/device. "Medium" as defined by Microsoft Computer Dictionary, Fifth Edition on page 332 is "a substance in which signals can be transmitted" and "media" (plural of medium) is defined as "physical material, such as paper, disk, and tape, used for storing computer-based information". Computer-usable medium as presented in claims 13 and 31 is not presented as a storage medium, rather it is presented as a substance embodying (part of) computer program code. It is respectfully submitted that the rejection of claims 13 and 31 and their respective dependents claims 13 – 19 and 31 - 35 be sustained.

II. REPLY TO EXAMINER'S ANSWER REGARDING CLAIMS 1-8, 11, 13-17, 21-28, 31-33, 35, AND 36.

(a)   As argued by the Appellant in the Appeal Brief, § 4.2.8 of Ljungh, cited by the Examiner, does not disclose "identifying a lowest clearance level from among the clearance levels assigned to the smart badges within the boundary," in combination with the "providing" element of claim 1.

Examiner respectfully disagrees with the appellant. § 4.2.8 of Ljungh discusses

both Guest badge and WIPS badge (smart badge). These badges are the same,

perform the same functionality and could be assigned clearance levels. However, in §

4.2.8 of Ljungh, the lowest clearance level was identified for the Guest badge. Further

Ljungh discusses access levels on page 13, section 4.1.2.

(b)   None of these teachings of Ljungh constitute providing access to that sub-set of information having a clearance level no higher than the lowest identified clearance level (which was identified from among the clearance levels assigned to the smart badges within the boundary). All § 4.2.1 of Ljungh teaches is automatic door opening based on voice authentication.

Examiner respectfully disagrees with the appellant. § 4.2.8 of Ljungh discusses

both Guest badge and WIPS badge (smart badge). On page 6, Ljungh discloses

information about which badge a person is wearing and the IP address of his laptop.

The badge is assumed to have static IP addresses that could be modified. Further on

page 7, Ljungh discloses, "the database server has a method of finding out whether or

not a particular user is allowed to see and update certain information in the database –

these are sub-set of information having a clearance level. These pages and section

clearly suggests appellant's claimed limitation "providing access to that sub-set of the

information having a clearance level no higher than the lowest identified clearance

level"; therefore, it is respectfully submitted that the rejections and response to the

arguments on the Appeal Brief, be sustained.

III. REPLY TO EXAMINER'S ANSWER REGARDING CLAIMS 9, 18, AND 34

Dependent claim 9 further recites defining a badge removal confidence level indicating whether each smart badge has been continuously worn by corresponding assigned smart badge wearers. The Examiner's Answer cited page 11, § 3.3.2 of Ljungh as purportedly disclosing this feature of claim 9. The cited passage refers to updating a position of a user on a map as a badge wearer changes rooms. There is absolutely no hint given here of defining a badge removal confidence level indicating whether each smart badge has been continuously worn by a corresponding assigned smart badge wearer.

Examiner respectfully disagrees with the appellant. Ljungh discloses whether

each smart badge has been continuously worn by corresponding assigned smart badge

wearers as shown on page 11, § 3.3.2 "The position of persons, peripherals and access

points are drawn in real time on the map, If a person wearing a badge changes rooms,

his or her position is updated on the map" (inherently, the position the person is been

drawn and observed in real time on the security monitor. This enables the determination

whether the badge is continuously worn). Ljungh also discloses on page 15, § 4.2.1 that

badges are authenticated to verify that the badges are in possession of the owner.

These stated pages and sections fairly suggest appellant limitation "defining a badge

removal confidence level indicating whether each smart badge has been continuously

worn by corresponding assigned smart badge wearers" as in claim 9. Therefore,

Examiner respectively submits that the rejections for claims 9, 18 and 34 and response

to the arguments on the Appeal Brief, be sustained.

IV. REPLY TO EXAMINER'S ANSWER REGARDING CLAIMS 10 AND 19

The Examiner made the following incorrect statement in support of the final rejection: "it is inherent as shown on this paragraph [page 14, § 4.1.5, 1112] that access could be denied based on expiration of assigned time and the data on the badge that permits this assign could be removed or erased based on this expiration time." Examiner's Answer at 25. The cited passage on page 14, 4.1.5, 2 of Ljungh refers to use of an administration tool to remove data. However, the removal of data as performed in § 4.1.5 of Ljungh is not based on the expiration period (timeout noted on page 9 of Ljungh) having been exceeded.

It is respectfully noted that the appellant agrees that Ljungh assigns expiration period to each of the smart badges, and de-authenticates and erases all data stored on smart badge whose expiration period has been exceeded (*The cited passage on page 14, 4.1.5, 2 of Ljungh refers to use of an administration tool to remove data. However, the removal of data as performed in § 4.1.5 of Ljungh is not based on the expiration period (timeout noted on page 9 of Ljungh))* but is confused at to whether expiration period is equivalent to timeout as on page 9 of Ljungh. Ljungh discloses assigning an expiration period to each of the smart badges (see page 9, paragraph 1: *"when a connection request from a badge is accepted..... .. or a timeout occurs" – timeout is interpreted as expiration);* and de-authenticating and erasing all data stored on a smart badge whose expiration period has been exceeded (see page 14, section 4.1.5 paragraph 2). Examiner respectively submits that the rejections for claims 10 and 19 and response to the arguments on the Appeal Brief, be sustained.

V. CONCLUSION

In view of the foregoing response to arguments and the response to arguments

presented in the Appeal Brief, it is respectfully requested that the final rejection of all

claims be sustained.

Respectfully submitted,

/Fred I. Ehichioya/

Examiner, Art Unit 2169.

January 22, 2009